

Court Facilities Dispute Resolution Committee

Ms. Karen Finn, Chair, Representative of the Department of Finance

Justice Ron Robie, Representative of the Judicial Council

Supervisor John Tavaglione, Representative of the California State Association of Counties

April 9, 2009

Michael C. Genest, Director
Department of Finance
State Capitol, Room 1145
Sacramento, CA 95814

Re: Court Facilities Dispute Resolution Committee Recommendation from the
January 28, 2009, meeting

Dear Director Genest:

This letter is to inform you that the Court Facilities Dispute Resolution Committee (DRC) formally met on January 28, 2009, to hear the Monterey County initiated dispute regarding the failure to reach agreement on transfer for the following court facilities: Salinas Courthouse-North Wing (27-A1), Marina Courthouse (27-B1), Monterey Courthouse (27-C1), King City Courthouse (27-D1), and Juvenile Courthouse (27-E1).

Government Code Section 70322 states that "Agreements for the transfer of responsibility for court facilities from the county to the Judicial Council may include multiple buildings within the county, and need not require a separate agreement for each building."

Government Code Section 70321 provides that transfer agreements executed on or after October 1, 2008 and before March 31, 2009, shall contain a requirement that the county pay, in addition to the county facility payment, specified continuing additional charges from the date of transfer. This section allows, in certain situations, for this multiplier to be tolled and ultimately waived if a Joint Declaration from the county and the AOC is executed prior to September 30, 2008, stating the presence of certain conditions which prohibit successful execution of a transfer agreement prior to the October 1 deadline. In order for the penalty to be waived, the transfer must be executed prior to December 31, 2008.

The Committee's recommendation is detailed below:

Various Monterey County Court Facilities

The County sought a single transfer agreement for the five trial court facilities, as well as an adjustment to the CFPs for these facilities to exclude any penalties and/or inflationary index indicators that AOC may apply as a result of the later transfer date.

The County believes it made an effort to transfer the facilities prior to December 31, 2008 and should not be responsible for penalties or higher inflation payments because of the AOC's inability to execute the transfers by that date.

Court Facilities Dispute Resolution Committee

Ms. Karen Finn, Chair, Representative of the Department of Finance

Justice Ron Robie, Representative of the Judicial Council

Supervisor John Tavaglione, Representative of the California State Association of Counties

The AOC stated that it had made consistent efforts, with little progress, since 2004 to assist the County in transferring its facilities. The AOC indicated that it continued to attempt to obtain documentation and develop terms of transfer for the four remaining facilities but that by late November, 2008, it became apparent that the transfers for the four remaining facilities had not been sufficiently developed over the preceding four and one-half years. Based on this assessment, the AOC informed the County that it could not complete all of the transfers in a single agreement and that it could not complete all of the transfers prior to the December 31, 2008 deadline.

Recommendation: Deny the appeal. The Committee members voted unanimously to recommend denial of the County's request to waive the statutory requirements regarding penalties.

Per Government Code Section 70303, the DRC will make recommendations regarding disputes to the Director of the Department of Finance who will then make the final determination. Please accept this letter as the DRC's formal recommendation on the above listed dispute.

Sincerely,

A handwritten signature in black ink, appearing to read 'Karen Finn', is written over a horizontal line.

Karen Finn, Chair

cc: All Interested Parties of the Court Facilities Dispute Resolution Committee